

NEBRASKA DRIVING UNDER THE INFLUENCE (DUI) LAW

(If convicted of DUI in Nebraska the following penalties will apply.)
Revised February 2012

Class W Misdemeanor

First Offense - § 28-106 & § 60-6,197.03 (1)

Maximum:	60 days in jail 6 months license revocation \$500 fine
Mandatory Minimum:	7 days in jail 6 months license revocation \$500 fine The court requires the person to apply for an ignition interlock.
If Probation:	60 days license revocation \$500 fine The court requires the person to apply for an ignition interlock.

Second Offense - § 28-106 & § 60-6,197.03 (3)

Maximum:	90 days in jail 1 year license revocation \$500 fine
Mandatory Minimum:	30 days in jail 1 year license revocation \$500 fine The court requires the person to apply for an ignition interlock after 45 days.
If Probation:	10 days in jail or not less than 240 hours of community service 1 year license revocation \$500 fine The court requires the person to apply for an ignition interlock after 45 days.

Third Offense - § 28-106 & 60-6,197.03 (4)

Maximum:	1 year in jail 15 years license revocation \$1,000 fine
Mandatory Minimum:	90 days in jail 15 years license revocation \$1,000 fine
If Probation:	30 days in jail 2 – 15 years license revocation \$1,000 fine The court may order the person to apply for an ignition interlock after 45 days.

Class IIIA Felony

Fourth Offense - § 28-105 & § 60-6,197.03 (7)

Maximum:	5 years in jail 15 years license revocation \$10,000 fine
Mandatory Minimum	180 days in jail 15 years license revocation
If Probation:	90 days in jail 15 years license revocation \$2,000 fine The court may order the person to apply for an ignition interlock after 45 days.

Class III Felony

Fifth Offense or More - § 28-105 & § 60-6,197.03 (9)

Maximum:	20 years in jail 15 years license revocation \$25,000 fine
Mandatory Minimum:	2 years in jail 15 years license revocation
If Probation:	180 days in jail 15 years license revocation \$2,000 fine The court may order the person to apply for an ignition interlock after 45 days.

A person convicted of DUI will also have to pay for an alcohol assessment during a presentence evaluation and if ordered by the judge to attend an alcohol treatment program. The treatment program can cost over \$3,000 and will be at the expense of the person convicted of DUI - § 60-6,197.08.

In addition to the above penalties, all vehicles owned by a person convicted of a second or subsequent DUI violation will be immobilized at the owner's expense for a period not less than five days and not more than eight months. Immobilization means revocation or suspension of the registration of motor vehicle(s), including the license plates. As an alternative to the immobilization provisions, the court shall require the installation of an ignition interlock on each of the owner's motor vehicles - § 60-6,197.01. A person may also be required to use a continuous alcohol monitoring device - § 60-6,197.01

NEBRASKA DRIVING UNDER THE INFLUENCE (DUI) LAW
Alcohol BAC Level .15 or Higher

(If convicted of DUI in Nebraska the following penalties will apply.)

Class W Misdemeanor

First Offense - § 28-106 & § 60-6,197.03 (2)

Maximum:	60 days in jail 1 year license revocation \$500 fine
Mandatory Minimum:	7 days in jail 1 year license revocation \$500 fine The court requires the person to apply for an ignition interlock.
If Probation:	1 year license revocation or impoundment \$500 fine 2 days in jail or not less than 120 hours of community service The court requires the person to apply for an ignition interlock.

Class I Misdemeanor

Second Offense - § 28-106 & § 60-6,197.03 (5)

Maximum:	1 year in jail 15 years license revocation \$1,000 fine
Mandatory Minimum:	90 days in jail 1 years license revocation \$1,000 fine
If Probation:	30 days in jail 1 to 15 year(s) license revocation or impoundment \$1,000 fine The court may order the person to apply for an ignition interlock after 45 days.

Class IIIA Felony

Third Offense - § 28-105 & 60-6,197 (6)

Maximum:	5 years in jail 15 years license revocation \$10,000 fine
Mandatory Minimum:	180 days in jail 15 years license revocation
If Probation:	60 days in jail 5 – 15 years license revocation \$1,000 fine The court may order the person to apply for an ignition interlock after 45 days.

Class III Felony

Fourth Offense - § 28-105 & § 60-6,197.03 (8)

Maximum:	20 years in jail 15 years license revocation \$25,000 fine
Mandatory Minimum:	1 year in jail 15 years license revocation
If Probation:	120 days in jail 15 years license revocation \$2,000 fine The court may order the person to apply for an ignition interlock after 45 days.

Class II Felony

Fifth Offense or More - § 28-105 & § 60-6,197.03 (10)

Maximum:	50 years in jail 15 years license revocation
Mandatory Minimum:	2 years in jail 15 years license revocation
If Probation:	180 days in jail 15 years license revocation \$2,000 fine The court may order the person to apply for an ignition interlock after 45 days.

A person convicted of DUI will also have to pay for an alcohol assessment during a presentence evaluation and if ordered by the judge to attend an alcohol treatment program. The treatment program can cost over \$3,000 and will be at the expense of the person convicted of DUI - § 60-6,197.08.

In addition to the above penalties, all vehicles owned by a person convicted of a second or subsequent DUI violation will be immobilized at the owner's expense for a period not less than five days and not more than eight months. Immobilization means revocation or suspension of the registration of motor vehicle(s), including the license plates. As an alternative to the immobilization provisions, the court shall require the installation of an ignition interlock on each of the owner's motor vehicles - § 60-6,197.01. A person may also be required to use a continuous alcohol monitoring device - § 60-6,197.01.

**DUI Violation and Motor Vehicle Crash
Serious Bodily Injury to Another Person or Unborn Child**

Class IIIA Felony - § 28-105 & § 60-6,198

Maximum: 5 years in jail
60 days to 15 years license revocation
\$10,000 fine

Mandatory Minimum: 60 days license revocation

Motor Vehicle Homicide

Class III Felony (no prior DUI conviction) - § 28-105 & § 28-306 (3)(b)

Maximum: 20 years in jail
1 year to 15 years license revocation
\$25,000 fine

Mandatory Minimum: 1 year license revocation
1 year in prison

Class II Felony (prior DUI conviction) - § 28-105 & § 28-306 (3)(c)

Maximum: 50 years in jail
15 years license revocation

Mandatory Minimum: 1 year in jail

Motor Vehicle Homicide of an Unborn Child

Class IV Felony (no prior DUI conviction) - § 28-105 & § 28-354 (3)(b)

Maximum: 5 years in jail
60 days to 15 years license suspension
\$10,000 fine

Mandatory Minimum: 60 days license revocation

Class III Felony (prior DUI conviction) - § 28-105 & § 28-394 (3)(c)

Maximum: 20 years in jail
60 days to 15 years license revocation
\$25,000 fine

Mandatory Minimum: 1 year in jail
60 days license suspension

NEBRASKA'S ADMINISTRATIVE LICENSE REVOCATION LAW

(§ 60-498.01 through § 60-498.04)

The Administrative License Revocation Law (ALR) allows a law enforcement officer to confiscate the license of a drinking driver on the spot when certain conditions are met. The ALR is applied administratively by the Department of Motor Vehicles (DMV). The penalties for the ALR are separate and distinct from any penalties assigned by the court for a conviction of drunk driving exceeding .08 blood alcohol concentration level or a conviction for driving under the influence.

The procedure for the ALR is as follows:

1. The police officer pulls over the suspected drunken driver. If the driver acts drunk or performs poorly on field sobriety tests, the officer arrests the motorist for driving while under the influence.
2. The driver is asked to take breath, blood, or urine test.
3. If the driver fails or refused the test, the officer immediately impounds the license and tells the driver that the license will be revoked in 15 days.
4. The officer provides the driver with a 15 day driving permit and information regarding administrative hearing and how to apply for an ignition interlock permit.
5. **If the driver refused the test, the license is automatically revoked for one year.**
6. **If the driver fails the test, the license is revoked for 180 days for a first offense. Second offense is a 1 year revocation.**
7. The driver may request a hearing and the DMV schedules one within 20 days of the receipt of the request.
8. At the hearing, the driver may only present evidence that he or she did not fail or refuse to take the test.
9. If the Director of DMV determines the driver has failed or refused to take the test, the license is revoked for 90 days or one year. (See 5 and 6)
10. If the Director of DMV determines that the driver did not fail or refuse the test, the revocation is dismissed and the license is returned.
11. If the driver disputes the decision by the Director of DMV, an appeal can be filed with the district court.

NEBRASKA'S IGNITION INTERLOCK INTERVENTION

Any arrested person who submits an application for an ignition interlock permit waives his or her right to have an Administrative License Revocation hearing and will have his or her driver's license revoked by the Director of Motor Vehicles.

No prior administrative license revocation and if submitted to a chemical test:

- The person (if applied for an ignition interlock permit) will be issued an ignition interlock permit 15 days after the date of the arrest or the date notice of revocation.

One or more prior administrative license revocations and if submitted to a chemical test:

- The person (if applied for an ignition interlock) will be issued an ignition interlock permit 15 days after the date of arrest, plus 45 days of no driving.

Refusal to submit to a chemical test:

- Ignition interlock will be available 15 days after the date of arrest, plus 90 days of no driving.

For Ignition Interlock Application information – Click on www.dmv.ne.gov/interlock.html